

PATENT
Docket No. 255.00010122

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Nolan et al.) Group Art Unit: 1645
Serial No.: 09/738,599)
Confirmation No.: 1240) Examiner: Sarvamangala Devi
Filed: December 15, 2000)
For: NUCLEIC ACID ENCODING AN AVIAN *E. COLI* ISS POLYPEPTIDE AND
METHODS OF USE

17

09/25/2003 LHUMES 00000003 134095 09738599 **TERMINAL DISCLAIMER**
02 FC:2814 Assistant Commissioner for Patents
55-00-10
Mail Stop AF
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

NDSU Research Foundation is the owner of 100 percent interest in the instant application, as evidenced by an assignment recorded at Reel 011761, Frame 0708 on May 15, 2001, and is the owner of 100 percent interest in U.S. Patent No. 6,087,128, as evidenced by an assignment recorded at Reel 9209, Frame 0667, on May 21, 1998. The owner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§154 to 156 and 173 as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 6,087,128, issued July 11, 2000. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§154 to 156 and 173 of the prior patent, as presently

Terminal Disclaimer**Applicant(s): Nolan et al.****Serial No.: 09/738,599****Confirmation No.: 1240****Filed: December 15, 2000****For: NUCLEIC ACID ENCODING AN AVIAN E. COLI ISS POLYPEPTIDE AND METHODS OF USE****Page 2 of 2**

shortened by any terminal disclaimer, in the event that the patent later: (1) expires for failure to pay a maintenance fee, (2) is held unenforceable, (3) is found invalid by a court of competent jurisdiction, (4) is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321, (5) has all claims canceled by a reexamination certificate, (6) is reissued, or (7) is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The undersigned is an attorney of record as evidenced by the Power of Attorney dated February 2, 2001.

FEE STATUS

Please charge Deposit Account No. 13-4895 the required fee of \$55 for small entity under 37 C.F.R. §1.20(d). Please also charge any additional required fees or credit any overpayment to Deposit Account No. 13-4895. Please contact Applicants' Representative at the below-listed telephone number with any questions.

CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Assistant Commissioner for Patents, Mail Stop AF, P.O. Box 1450, Alexandria, VA 22313-1450, on this 17 day of SEPTEMBER, 2003, at 2:47 pm (Central Time).


Name: SAM HER

Date

Sept. 17, 2003

Respectfully submitted for

Nolan et al.

By

Mueting, Raasch & Gebhardt, P.A.

P.O. Box 581415

Minneapolis, MN 55458-1415

Telephone (612)305-1220

Facsimile (612)305-1228

Customer Number 26813

By: David L. Provence

David L. Provence

Reg. No. 43,022

Direct Dial (612)305-1005